

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on February 5, 2001
at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Debby Barrett (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Carol C. Juneau, Vice Chairman (D)

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 392, HB 410, HB 432
Executive Action: none.

HEARING ON HB 392

Sponsor: Rep. Gay Ann Masolo, HD 40.

Proponents: Steve Jenkins, Local Technical Assistance Program at Montana State University; Sam Gianfrancisco, LTAP; Ray Barnicoat, Montana Association of Counties; Jane Jelinski, Montana Association of Counties; Jack Knorr, Superintendent of Roads and Bridges for Stillwater County; John Ostlund, Yellowstone County of Road and Bridges Superintendent; Joe Mazurek, City of Great Falls, MT.;

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Rep. Masolo said this bill would increase the amount of gas and vehicle tax proceeds going to the Local Technical Assistance Transportation Program. This Program helps train state and local transportation officials. Also, this program gives technical assistance to counties that do not have the personnel for this.

Proponents' Testimony:

Steve Jenkins said the program has been in existence since 1983 and has been providing training and technical assistance to local state providers in Montana. EXHIBIT(trh29a01).

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Sam Gianfrancisco said this is a benefit for counties that cannot send people to on-site training. He said, with additional funding, they could continue this program and expand it further. He supports HB 392. EXHIBIT(trh29a02), EXHIBIT(trh29a03).

Ray Barnicoat said he supports HB 392.

Jane Jelinski said she supports HB 392.

Jack Knorr said he supports HB 392.

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John Ostlund said he supports HB 392. EXHIBIT(trh29a04).

William R. Gibbs faxed in testimony to support HB 392.
EXHIBIT (trh29a05).

Joe Mazurek said the LTAP Program is important to local communities because of the training it provides for maintenance and flagging and other issues. He supports HB 392.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

Rep. Balyeat asked **Mr. Jenkins** what this program does with the money. **Mr. Jenkins** said Montana is one of the first states to have an LTAP Program. He said the training that they provide comes out of four areas. There are workshops on a variety of topics; a video library; technical assistance on maintenance; and the Flaggers Assistance Program.

Closing by Sponsor:

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Rep. Masolo said this program also is a safety and legal assistance program. She asked for a Do Pass on HB 392.

HEARING ON HB 410

Sponsor: **Rep. Dick Haines**, HD 63, Missoula.

Proponents: **Al Kington**, Montana Forest County Coalition; **Tim Ravndal**, Montanans for Multiple Use; **Mike Collins**, Self; **Matt Brainard**, Self.

Opponents: **Kathy Lloyd**, Clancy-Unionville Citizens' Task Force; **Mike Grayson**, Attorney for Anaconda and DeerLodge County; **Sherm Janke**, Sierra Club; **Pam Bucy**, County Attorneys Association; **Shawn Regnerus**, Bozeman; **Cesar Hernandez**, Somers, Mt.

Informational Witnesses: none.

Opening Statement by Sponsor:

Rep. Haines said the purpose of this bill is to reaffirm the state's right to RS 2477 right of ways.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 2.6}

Al Kington said they support HB 410.

Tim Ravndal said he is in favor of this bill for two reasons, one is that the accountability of federal agencies in regards to taking RS2477 right of ways is imperative if they hope to pass the opportunity of enjoying Montana on to children. Secondly, the use of natural resources on public lands is very dependent on access to these public lands.

Mike Collins said these right-of-ways were granted for development of Western territories in 1866. These right-of-ways are roads that allow access to existing mining claims.

EXHIBIT(trh29a06), EXHIBIT(trh29a07). He supports HB 410.

Howard W. Gipe, Chairman of Board of Commissioners of Flathead County, faxed testimony supporting HB 410. **EXHIBIT(trh29a08)**.

Matt Brainard said he supports HB 410. He gave information regarding Existing Rights-of-Way and Effect of Existing Rights.

EXHIBIT(trh29a09).

Opponents' Testimony:

Kathy Lloyd said they oppose HB 410. This bill delegates legal authority to an individual having no accountability and not representing the public, but for his own interests.

EXHIBIT(trh29a10).

Mike Grayson said this would open a flood gate to anyone who wants to assert an interest in a road, with no county officials having a say in it, anymore. Section 5 says any individual, on behalf of the state, in a district court, in the county in which the individual resides, can file this kind of action.

{Tape : 1; Side : B; Approx. Time Counter : 20.6}

Sherm Janke said he opposes HB 410.

Pam Bucy said they oppose HB 410.

Shawn Regnerus said RS2477 applies to any lands that were held by the Federal Government from 1866 to 1976, unless they were otherwise reserved. This bill makes it far more difficult for someone to prove that an easement has been distinguished and it does not protect easements on public lands. He opposes HB 410.

Cesar Hernandez handed in testimony opposing HB 410. **EXHIBIT(trh29a11)**.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 3.6}

Rep. Smith asked **Mr. Collins** if a county condemned a road, would they have responsibility for it. **Mr. Collins** said the Federal Government maintains jurisdiction on that which lies under a road bed, if a road is in place on a right-of-way, and maintains jurisdiction on either side of the right-of-way, but it doesn't make the right-of-way, once created, go away. He said the State of Montana, in 1871, affirmed that all existing right-of-ways on that date are public right-of-ways.

Rep. Gallik asked **Rep. Haines** if he could tell them where the genesis of this bill came from. **Rep. Haines** said this is a concern that we are losing access to public lands.

Rep. Gallik asked **Rep. Haines** if a fiscal note was requested for the bill. **Rep. Haines** said there is no cost responsibility to the State of Montana.

Rep. Bookout-Reinicke asked **Ms. Bucy** if these right-of-ways are covered in the old constitution. **Ms. Bucy** said these particular right-of-ways are not referred to in either the old or the new constitution.

{Tape : 2; Side : A; Approx. Time Counter : 17.1}

Rep. Devlin asked **Ms. Bucy** if this law is passed, and an individual or entity decides to pursue on RS2477 claim, would the State of Montana join with them in that claim. **Ms. Bucy** said yes, that is her department's interpretation. She said law currently requires that a county attorney or state attorney would represent any interest that the state might have in those reports.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 26}

Rep. Haines said, according to law, a person must prove a right-of-way exists, and that right-of-way belongs to the State of Montana. He urges Do Pass on HB 410.

HEARING ON HB 432

{Tape : 2; Side : B; Approx. Time Counter : 5.5}

Sponsor: Rep. Balyeat, HD 32.

Proponents: none.

Opponents: none.

Informational Witnesses: Colonel Bert Obert, Montana Highway Patrol; Gary Gilmore, Montana Department of Transportation.

Opening Statement by Sponsor:

Rep. Balyeat said this bill allows a motorist to turn right at a red light where there are two right lanes, if the motorist is in the far right lane. Also, he said, people sitting at red lights waste a lot of gas and there is a lot of pollution involved. He provided a map showing an explanation of merging right hand lanes. **EXHIBIT**(trh29a12).

Proponents' Testimony: none.

Opponents' Testimony: none.

Informational Witnesses' Testimony:

Colonel Bert Obert said he was here to make any clarification relative to other traffic laws that may be impacted by this particular law, if there are changes.

Gary Gilmore said he is here to clarify understanding of why MDT prohibits the right turn on a red light at 4 locations in the State of Montana. He said these locations are where two lanes turn right from a ramp onto a multi-lane facility. He said these reasons are pedestrian safety and so traffic will run smoothly.

Questions from Committee Members and Responses:

Rep. Smith asked **Mr. Gilmore** if there were any reports of accidents on these interchanges. Mr. Gilmore said he is not aware of any large accident reports.

Colonel Obert said he would get the information on accident reports to **Rep. Smith**.

{Tape : 2; Side : B; Approx. Time Counter : 14.1}

Rep. Price asked **Mr. Gilmore** if visibility was helped if the stops were staggered on the left instead of the right lanes. **Mr. Gilmore** said yes, if people would stop there.

Chairman Somerville asked **Rep. Balyeat** how an intersection is marked and are they standard crosswalk markings. **Rep. Balyeat** said he was not sure, but on the issue of visibility, even if there was a problem, it could be solved by painting the cross striping in a staggered fashion. The middle lane could stop a little farther back than the right lane. The left turn lane could stagger back a little further.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 21.1}

Rep. Balyeat addressed the issue of the potential problem with pedestrians. Pedestrians are at every intersection with right turns on red. He said if this was a problem, we already have a law on the books to take care of that, which is "all traffic yields the right of way to pedestrians". He urged a Do Pass on HB 432.

Chairman Somerville said they will do executive action on HB 137 and HB 153 on Wednesday, 02/07/01. Also executive action will be held on HB 433 on Friday, 02/09/01 as the sponsor, **Rep. Schrumpf**, is working on amendments to the bill.

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT (trh29aad)